crimes were committed there; he was charged by indictment with their commission; he voluntarily left the state subsequent to their commission and was found without the state. Thus, all the elements essential to constitute one a fugitive from justice were present. Whether Biddinger can be tried under the indictment is a question of a different nature, to be raised in a different manner. The court was concerned with the one question whether he was a fugitive from justice so as to be subject to extradition.

FRAUDS, STATUTE OF—CHECK AS PART PAYMENT.—Defendant received a check from plaintiff for $5,000 in payment for live stock. *Held,* a check is not such part payment as will take a contract out of the Statute of Frauds. *Bates* v. *Dwinell* (Neb., 1917), 164 N. W. 722.

The plaintiff in this case had only $1,500 in the bank at the time he issued the check but the cashier of the bank testified that the check would have been paid if presented. There is a direct conflict of authority upon the question here presented. In *McLure* v. *Sherman,* 70 Fed. 190, it was held that a check drawn upon a deposit in the bank named as drawee has a money value and is a sufficient part payment to satisfy the statute. In this case, it is said, "A check given to a person in the ordinary course of business is of such value that the person who receives it cannot look to the drawer of the check for the amount named therein until he has presented the check to the drawee or payee for payment, and payment refused". To the same effect is *Logan* v. *Carroll,* 72 Mo. App. 613, in which it is held that if the check is accepted as payment the statute is satisfied. The contrary view is reached in *Groomer* v. *McMillan,* 143 Mo. App. 612, in which it is said, "The law is that the payment, to be effective in avoidance of the Statute of Frauds, must be an absolute payment * * * 'Nothing is better settled than that a check is not payment, but is only so when the cash is received on it'." It is said in a number of cases that the part payment may be in anything of value. *Kuhns* v. *Gates,* 92 Ind. 66; *Howe & Co.* v. *Jones,* 57 Iowa 130; *Dow* v. *Worthen,* 37 Vt. 108. It might be interesting to note in this connection that the giving of a buyer's promissory note is not a sufficient part payment because it is said that a note merely postpones the time of payment. *Krohn* v. *Bantz,* 68 Ind. 277; *Combs* v. *Bateman,* 10 Barb (N. Y.) 573. In *Burton* v. *Gage,* 85 Minn. 355, it was held that the transfer of a logging contract as payment of the purchase money is within the Statute. The holding of this case, however, seems to be consistent with the view that a check is not a payment of an antecedent debt in the absence of an express agreement to consider it as such. *People's Savings Bank* v. *Gifford,* 108 Ia. 277.

HABEAS CORPUS—RELEASE OF CONVICT—CONVICTION BY FALSE TESTIMONY.—The plaintiff, a prisoner in the state penitentiary for three years, submitted an affidavit of the prosecutrix that her testimony leading to his conviction was procured by intimidation. *Held,* that *habeas corpus* would not lie to secure his release. *Springstein* v. *Saunders* (Iowa, 1917), 164 N. W. 622.

To warrant the discharge of a prisoner the sentence under which he is held, must be not only erroneous and voidable, but absolutely void. *Ex parte Reed,* 100 U. S. 13. An illegality which renders such judgment void

is such an illegality as is contrary to the principles of law as distinguished from the rules of procedure. *Habeas corpus* proceeding is a collateral attack of a civil nature to impeach the validity of a judgment or sentence of another court on a criminal proceeding and it should therefore be limited to cases in which the judgment or sentence attacked is clearly void by reason of its having been rendered without jurisdiction or by reason of the court having exceeded its jurisdiction in the premises. *In re Frederick,* 149 U. S. 70, 76. *People* v. *Liscomb,* 60 N. Y. 559. In the instant case the court had complete jurisdiction. The judgment was based on false testimony but this did not make it void. This is the only case reported where *habeas corpus* was resorted to. The plaintiff's remedy, though unsatisfactory, was to appeal to the pardon board. In other words, the Court had jurisdiction to make wrong as well as right decisions in all stages of prosecution, and whether those made were right or wrong cannot be raised on *habeas corpus* proceedings. *People* v. *Liscomb, supra; State* v. *Sloan,* 65 Wis. 647.

INCOME TAX ACT—ALIMONY NOT INCOME.—Under a divorce decree, entered in 1909, whereby the plaintiff in error was ordered to pay the defendant in error, during her life, the sum of $3,000.00 every month, for her support and maintenance, the question arose whether the monthly payments during the years 1913 and 1914 constituted parts of defendant in error's income, within the intendment of the Income Tax Act, of Oct. 3, 1913 (38 Stat. 114, 166), so as to be subject to the tax prescribed therein. *Held,* that they did not. *Gould* v. *Gould,* (1917), 38 Sup. Ct. 53.

The particular portions of the Act involved in the question in the instant case were Section II, A, Subdivision 1, declaring that a tax of 1% per annum "shall be levied, assessed, collected, and paid annually upon the entire net income arising or accruing from all sources in the preceding calendar year to every citizen of the United States, * * * and to every person residing in the United States, though not a citizen thereof"; and Section II, B, declaring that "the net income of a taxable person shall include gains, profits, and income derived from salaries, wages, or compensation for personal service of whatever kind and in whatever form paid * * * or gains or profits and income derived from any source whatever, including the income from but not the value of property acquired by gift, bequest, devise, or descent * * *". In interpreting the Act, the court applies what it lays down as the established rule to be applied in the interpretation of statutes levying taxes, viz.: The provisions of such statutes will not be extended, by implication, beyond the clear import of the language used; their operations will not be enlarged so as to embrace matters not specifically pointed out; and, in case of doubt, they will be construed most strongly against the Government, and in favor of the citizen; citing *U. S.* v. *Wigglesworth,* 2 Story, 369; *American Net & Twine Co.* v. *Worthington,* 141 U. S. 468; *Benziger* v. *U. S.,* 192 U. S. 38. Applying this rule, the Court in a very brief opinion, said that it could not assert that alimony paid to a divorced wife under a decree of court fell within the term "net income", as defined in the Act. This decision further increases the anomolous character of alimony, previous cases having held that it is not a debt so as to be prov-